

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>MARQUICE EVANS,</b>	)	
<b>Plaintiff,</b>	)	
	)	<b>C.A. No. 20-22 Erie</b>
	)	
<b>v.</b>	)	<b>District Judge Susan Paradise Baxter</b>
	)	<b>Magistrate Judge Richard A. Lanzillo</b>
<b>RICHARD LORAH, et al.,</b>	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

This action was commenced by Plaintiff's filing of a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 against the following Defendants: Police Captain Richard Lorah, Police Detective Sean Bogart, former Magisterial District Judge Tom Robie, Chief Public Defender Patricia Kennedy, court-appointed defense attorneys Bruce Sandmeyer and Emily Merski, District Attorney Jack Daneri, former District Attorney Erin Connelly, and Erie County Judges John Trucilla and Jamie Mead. This matter was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On May 11, 2020, Magistrate Judge Lanzillo issued a report and recommendation ("R&R") recommending that this action be dismissed as legally frivolous and/or for failure to state a claim in accordance with 28 U.S.C. § 1915(e). [ECF No. 5]. On the same date, this matter was assigned to the undersigned as presiding judge. On November 23, 2020, Plaintiff filed objections to the R&R essentially raising the same allegations presented in his complaint, with

attached exhibits supporting such allegations.<sup>1</sup>

After de novo review of the complaint, together with the report and recommendation and the objections thereto, the following order is entered:

AND NOW, this 31st day of December, 2020;

IT IS HEREBY ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued May 11, 2020 [ECF No. 5], is adopted as the opinion of the Court, and this case is DISMISSED as frivolous pursuant to 28 U.S.C. § 1915(e). Such dismissal is without prejudice to the extent that (1) Plaintiff is not precluded from challenging his conviction in a timely-filed habeas corpus petition after his state PCRA proceedings have terminated, and (2) Plaintiff may file a renewed civil rights action seeking damages for malicious prosecution or abuse of process if his criminal conviction is later overturned. All other claims are dismissed with prejudice.

The Clerk is directed to mark this case CLOSED.

  
SUSAN PARADISE BAXTER  
United States District Judge

cc: Richard A. Lanzillo  
U.S. Magistrate Judge

all parties of record

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Objections were originally due by May 28, 2020; however, no timely objections were received. As a result, this Court issued an Order on May 29, 2020, adopting Judge Lanzillo's R&R and dismissing this case, without prejudice [ECF No. 6]. Subsequently, on October 23, 2020, Plaintiff filed a motion for relief from judgment [ECF No. 10] arguing that he was unable to file timely objections due to problems with inmate mail. In light of this motion, the Court reopened this case and extended the time for filing objections to December 11, 2020. [ECF No. 11].